

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAKE CHARLES DIVISION**

(1)	TINA JOHNSON	*	CIVIL ACTION NO. 10-cv-404
		*	
	Plaintiff,	*	
		*	JUDGE PATRICIA MINALDI
vs.		*	
		*	MAG. JUDGE KATHLEEN KAY
(1)	TEVA PHARMACEUTICALS USA, INC.*	*	
(2)	QUALITEST	*	
(3)	WYETH, INC. d/b/a WYETH	*	
(4)	SCHWARZ PHARMA, INC.	*	
(5)	ALAVEN PHARMACEUTICALS, LLC	*	
		*	
	Defendants	*	
*	*   *   *   *   *	*	

**DEFENDANT ALAVEN PHARMACEUTICAL, LLC’S MOTION TO DISMISS AND  
INCORPORATED MEMORANDUM IN SUPPORT**

Defendant, Alaven Pharmaceuticals, LLC (“Alaven”), joins in the motion to dismiss filed by Defendants Wyeth LLC and Schwarz Pharma, Inc. and incorporates in its entirety by reference herein. On June 1, 2010, Defendants Wyeth LLC and Schwarz Pharma, Inc. filed a motion to dismiss on the basis that the Complaint does not allege that Plaintiff used a product manufactured by either defendant. *See* Document #13. The Complaint alleges that the “Reglan/metoclopramide ingested by Mrs. Johnson was manufactured by Teva Pharmaceuticals, USA, Inc. and Qualitest.” *See* Complaint, Document #1, at ¶3.06. The complaint, therefore, must be dismissed as to Alaven as well.

In light of the undisputed fact that Plaintiff did not ingest a product manufactured by Alaven and for the reasons discussed in the Wyeth/Schwarz motion to dismiss, the Court should dismiss with prejudice all claims asserted against Defendant Alaven Pharmaceuticals, LLC.

Respectfully submitted:

s/Ann R. Koppel

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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that service of the foregoing was on this date automatically accomplished on all known Filing Users through the Notice of Electronic Filing. Service on any party of counsel who is not a Filing User was accomplished via e-mail, facsimile, certified mail/RRR or U.S. First Class Mail, in accordance with the Federal Rules of Civil Procedure, on this 14th day of June, 2010.

s/Ann R. Koppel

Ann R. Koppel